

### REMARKS/ARGUMENTS

The claims are 48, 49, 60-63, 65, 66, 68-72, 75, 76, 78-84, and 95-133. Claims 48, 49, 60-63, 66, 68-72, 75, 76, 78-84, 95-106, 108-114, 116-124, and 126-129 have been amended to better define the invention or to remove reference numbers. Claims 73, 74, 90 and 94, have been canceled in favor of new claims 130-133, respectively. In addition, claims 50-59, 64, 67, 77, 85-89, and 91-93 have been canceled. Claims 95-96, which previously depended on claim 94, have been amended to depend on new claim 133. Support for the claims may be found, *inter alia*, in the disclosure at page 2. Reconsideration is expressly requested.

The drawings were objected to under 35 CFR 1.83(a) as failing to show the features of claims 64, 67, 73, 77, 83 and 91. In response, Applicants have, *inter alia*, canceled claims 64, 67, 77 and 91, have canceled claim 73 in favor of new claim 130, and have amended claim 83 to delete "and/or via freewheel". New claim 130 likewise omits "and/or via freewheel." It is respectfully submitted that the third transmission path being engaged via a second switching gear part as recited in amended claim 83 and new claim 130 are shown in the drawings. Accordingly, in view of the above, it is respectfully requested

that the Examiner's objection to the drawings under 37 CFR 1.83(a) be withdrawn.

Claims 50-101, 105, 111, 112, 117, 118, 120, 121, 127 and 128 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for the reasons set forth on page 3 of the Office Action. In response, Applicants have, *inter alia*, canceled claims 50-59, 64, 67, 73, 74, 77, 85-94, have amended claims 60-63, 66, 68-72, 75, 76, 78-84, 95-101, 111, 112, 117, 118, 120, 121, 127 and 128 to improve the form of the claims, and have added new claims 130-133. It is respectfully submitted that all currently pending claims fully comply with 35 U.S.C. 112, second paragraph, and Applicants respectfully request that the rejection on that basis be withdrawn.

Claims 48, 49, 85-89, 92 and 93 were rejected under 35 U.S.C. 102(b) as being anticipated by *Rohs U.S. Patent No. 6,093,131*. Claim 63 was rejected under 35 U.S.C. 102(b) as being anticipated by *Serkh U.S. Patent No. 6,379,275*. Claims 50-59 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Rohs '131* in view of *Fey et al. U.S. Patent No. 6,623,399*. Claims 60-63 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Rohs '131* in view of *Cosby U.S. Patent No.*

3,048,046. Claim 91 was rejected under 35 U.S.C. 103(a) as being unpatentable over Rohs '131. Claims 65, 66 and 68-72 were rejected under 35 U.S.C. 103(a) as being unpatentable over Serkh '275 in view of Schmidt U.S. Patent No. 6,056,661. The Examiner, however, has apparently not made any prior art rejection with respect to claims 64, 67, 73-84, 90 and 94-129.

In response, Applicants have canceled claims 64, 67, and 77 and have rewritten claims 73, 74, 90 and 94 in independent form substantially as new claims 130-133, respectively. As no prior art rejection has been made with respect to these claims, it is respectfully submitted that new claims 130-133 together with claims 75, 76, 78-84, claims 95 and 96, which have been amended to depend on new claims 133, and claims 97-129, are now in condition for allowance as no prior art rejection has been made with respect to these claims.

With respect to the rejection of claims 48, 49, 85-89, 92 and 93 under 35 U.S.C. 102(b) as being anticipated by Rohs '131, and the rejection of claim 63 under 35 U.S.C. 102(b) as being anticipated by Serkh, Applicants have canceled claims 85-89, 92 and 93 and have amended claims 48 and 49 to restrict the transmission to a revolving friction ring transmission having at

least two revolving friction ring cones. Although the Examiner has taken the position at page 3 of the Office Action that all friction drives have a space between their elements for the disposition of traction liquid, it is respectfully submitted that this statement is incorrect for at least two reasons. First, *Serkh* cited by the Examiner shows a friction gear with a belt without any traction fluid. *Serkh's* device clearly is a friction drive which does not use any traction at all.

In addition, it is respectfully submitted that as the Examiner best knows, there are a lot of friction drives, even a lot of friction ring cone gears, that are known in the art that do not use any traction fluid. Accordingly, it is respectfully submitted that not all friction drives have a space between their elements for the disposition of traction liquid.

Second, Applicants have found that under certain circumstances, especially when certain traction fluids are used and when the friction ring cone gear is at rest, or at very, very low speeds, an electrical current may be passed through the two cones via the friction ring. If the velocity of the friction ring gear is increased, the electrical resistance increases rapidly. Therefore, the direct contact between each cone and the

friction ring is destroyed at higher velocities, and the gap occurs only above certain velocities. It follows that not all friction drives have a space between their elements for the disposition of a traction fluid at all times during usual conditions.

Accordingly, it is respectfully submitted that claims 48 and 49 are not anticipated by *Rohs '131* and that claim 63 is not anticipated by *Serkh*.

With respect to the Examiner's rejection of claims 58-59 as being unpatentable over *Rohs '131* in view of *Fey et al.*, Applicants have canceled claims 50-59, thereby obviating the Examiner's rejection on this basis.

With respect to the Examiner's rejection of claims 60-63 as being unpatentable over *Rohs '131* in view of *Cosby*, it is respectfully submitted that the secondary reference to *Cosby* does not remedy the deficiencies of the primary reference to *Rohs '131*.

There is no disclosure or suggestion in *Cosby* of a friction ring. Therefore, it is respectfully submitted that *Cosby* is

unable to provide any guidance or hint with respect to different running paths of a friction ring.

In addition, there is no disclosure or suggestion in *Cosby* of a friction torque transmission. Rather, *Cosby* discloses a torque transmission. Rather, *Cosby* discloses a torque transmission via magnetic effects which are imparted by a paramagnetic liquid. Thus, *Cosby* does not provide for frictional contact between two cones, whether via a friction ring or directly by omitting such friction ring. Rather, the cones in *Cosby* are coupled without frictional contact by a magnetic field. Therefore, it is respectfully submitted that a person skilled in the art would not consider *Cosby* when trying to improve a friction ring cone gear according to *Rohs*.

In addition, *Cosby* at most discloses building cones out of different plates that are equidistant to each other and have the same thickness. In other words, the surface characteristics of the cones are identical throughout the surface of these cones. The magnetic field between the cones will be identical at any axial point. Therefore, *Cosby* fails to disclose or suggest different surfaces for different running paths.

Applicants' invention as recited in claims 60-63 differs from *Rohs '131* and *Cosby* in each of the above features. Thus, even if one were to make the combination suggested by the Examiner one would still not achieve Applicants' invention as recited in claims 60-63.

With respect to the rejection of claim 91 as being unpatentable over *Rohs '131*, Applicants have canceled claim 91, thereby obviating the Examiner's rejection.

With respect to the Examiner's rejection of claims 65, 66 and 68-72 as being unpatentable over *Serkh '275* in view of *Schmidt*, it is respectfully submitted that the *Schmidt* reference does not remedy the defects of the primary reference to *Serkh '275*.

It is respectfully submitted that it is not obvious to use an electric motor drive in combination with a continuously variable partial transmission. An electric motor drive may vary its speed freely. Accordingly, it is respectfully submitted that a person skilled in the art will not have any reason to combine such a freely variable electric motor drive with a continuously variable transmission. Although a continuously variable transmission will lead to additional losses, on a first sight, due to the additional gear members, Applicants have surprisingly

found that such a continuously variable transmission will increase the efficiency of such a power drive. This recognition, it is respectfully submitted, is nowhere disclosed or suggested by any of the cited references.

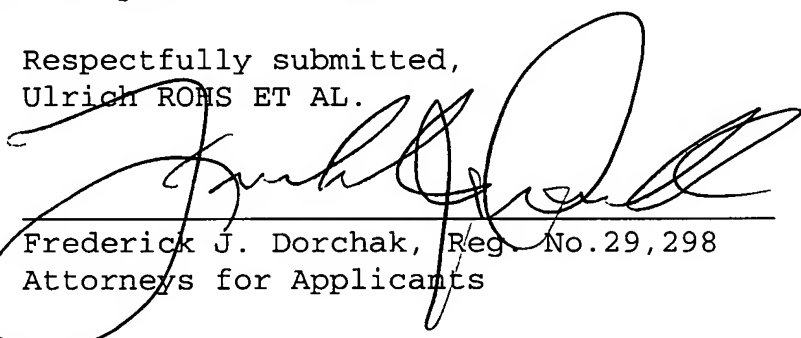
Accordingly, it is respectfully submitted that claim 48 as amended, claim 60 as amended, and claim 63 as amended, together with claims 49, 61, 62, 65, 66, 68-72, which depend directly or indirectly on claim 48, 60 or 63, as amended, are now in condition for allowance, together with new claims 130-133, and claims 75, 76, 78-84, and 95-129, for which no prior art rejection has been made.

Claims 48-129 were provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 69-204 of copending Application No. 10/529,605. Essentially, the Examiner's position was that the claims of the Rohs et al. co-pending '605 application claim the same subject matter as Applicants' claims 48-129 because the entire scope of claims 48-129 was said to be contained within the claims of the '605 application. In response, Applicants are submitting herewith a Terminal Disclaimer, thereby obviating the double-patenting rejection.

In summary, claim 48, 49, 60-63, 66, 68-72, 75-76, 78-84, 95-106, 108-114, 116-124, and 126-129 have been amended, claims 50-59, 64, 67, 73, 74, 77, and 85-94 have been canceled, and new claims 130-133 have been added. A check in the amount of \$315.00 is enclosed in payment of the fee for three additional independent claims over those previously paid for. In addition, a Terminal Disclaimer and a check in the amount of \$65.00 in payment of the Terminal Disclaimer fee is enclosed. In view of the foregoing, it is respectfully requested that the claims be allowed and that this case be passed to issue.

Respectfully submitted,  
Ulrich ROHS ET AL.

COLLARD & ROE, P.C.  
1077 Northern Boulevard  
Roslyn, New York 11576  
(516) 365-9802  
FJD:djp

  
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Frederick J. Dorchak, Reg. No. 29,298  
Attorneys for Applicants

Enclosure:        Terminal Disclaimer with check in the amount of \$65.00  
                     Check in the amount of \$315.00 (extra claims)  
                     Copy of Petition - 3 month extension

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 10, 2008.

  
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Amy Klein

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